

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ABRAHAM TIGGS,

Plaintiff,

v.

B. CURRY, ET AL.,

Defendants.

No. C 07-02620 SBA (PR)

**ORDER REGARDING IN FORMA
PAUPERIS MOTION**

Plaintiff, a state prisoner, filed this pro se civil rights action under 42 U.S.C. § 1983. He filed an application for in forma pauperis (hereinafter "IFP") status when he filed his complaint. He attached a copy of his prison trust account statement covering the three-month period before he filed his complaint (instead of the required six-month period) and an unsigned Certificate of Funds form. On the same date that he filed his complaint, Plaintiff informed the Court that on May 3, 2007, he submitted his prison trust account statement and a blank Certificate of Funds form to Correctional Counselor Terry. However, Plaintiff claims that Correctional Counselor Terry "refused to signe [sic] the certificate document for no apparent reason other than to delay and/or obstruct [his] access to the court." (Pl.'s Decl. at 1-2.) Plaintiff filed a 602 inmate appeal on May 3, 2007 regarding this incident. Plaintiff's 602 appeal was screened out on May 7, 2007 because Plaintiff did not submit his appeal for review at the informal level.

Ordinarily, a plaintiff is permitted to file a civil action in federal court without prepayment of fees or security if he submits an affidavit that he is unable to pay such fees or give security therefor. See 28 U.S.C. § 1915(a). If the plaintiff is a prisoner who alleges that he is unable to pay the full filing fee at the time of filing, he must submit: (1) an affidavit that includes a statement of all assets he possesses, and (2) a certified copy of the trust fund account statement for the prisoner for the six-month period immediately preceding the filing of the action, obtained from the appropriate official of each prison at which the prisoner is or was confined. See id. § 1915(a)(1), (2). If the court determines that the plaintiff is unable to pay the full filing fee at the time of filing, the plaintiff will be granted leave to proceed IFP. This means that the filing fee must be paid by way of an installment plan, according to which the court first will assess and collect a partial filing fee from the prisoner, and then the prisoner will be required to make monthly payments of twenty percent of the preceding month's income credited to Plaintiff's account until the full \$350.00 filing fee is paid. Id. §1915(b)(1). The agency having custody of the prisoner is responsible for forwarding to the court payments from Plaintiff's account each time the amount in the account exceeds ten dollars. See id.

Therefore, before the Court will proceed to review the complaint Plaintiff is hereby ORDERED to file copies of the Certificate of Funds and his prisoner trust account statement for the six-month period immediately preceding the filing of the action. Plaintiff shall do so within **thirty (30) days** of the date of this Order.

Failure to file copies of Plaintiff's Certificate of Funds and prisoner trust account statement as ordered herein by the thirty-day deadline shall result in the dismissal of this action without prejudice.

IT IS SO ORDERED.

DATED: 11/5/07


SAUNDRA BROWN ARMSTRONG
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ABRAHAM TIGGS,

Case Number: CV07-02620 SBA

Plaintiff,

CERTIFICATE OF SERVICE

v.

B. CURRY, ET AL et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 6, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Abraham T. Tiggs F-18763
Correctional Training Facility
P.O. Box 705
Soledad, CA 93960

Dated: November 6, 2007

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk